

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

Elizabeth Honigsberg,

Plaintiff

v.

Southern New Hampshire Health System, Inc.;
Southern New Hampshire Medical Center; and
Foundation Medical Partners, Inc.

Defendants

Docket No. 1:23-xc-00515

NOTICE OF REMOVAL
AND DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §§1441 and 1446, DEFENDANTS SOUTHERN NEW HAMPSHIRE HEALTH SYSTEM, INC., SOUTHERN NEW HAMPSHIRE MEDICAL CENTER; AND FOUNDATION MEDICAL PARTNERS, INC., by and through their attorneys, JACKSON LEWIS P.C., hereby removes this action from the Superior Court of the State of New Hampshire, Hillsborough County, Southern District, to the United States District Court for the District of New Hampshire.

In support of this Notice of Removal, Defendants state as follows:

1. On or about, May 8, 2020, Elizabeth Honigsberg dual-filed a Charge of Discrimination with the New Hampshire Commission for Human Rights (“NHCHR”) (Charge No. EDS(R) 0114-20) and the Equal Employment Opportunity Commission (“EEOC”) (Charge No. 16D-2020-00124) against Defendants, alleging disability discrimination in violation of the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. §12101, et seq. (“ADA”) and

violation of NH RSA 354-A, et seq. A copy of Plaintiff's Charge of Discrimination is appended hereto as Exhibit 1.

2. By letter dated February 4, 2022 and May 9, 2022 respectively, Plaintiff notified the Commission and the EEOC with their notice of intent to file a civil action, and Commission and EEOC therefore dismissed the charges without prejudice.

3. Pursuant to NH RSA 354-A:21-a, on or about September 2, 2022, Plaintiff filed her Complaint and Request for Jury Trial with the Hillsborough County Superior Court, Southern District. Defendants then filed their Answer on November 18, 2022. Defendants then filed their Answer on November 22, 2022. Plaintiff then filed a Motion for Leave to file Plaintiff's First Amended Complaint, to include additional charges of Willful Retaliation in Violation of FMLA, pursuant to 29 USC 4§ 2615, 2617(c) and 2601, which was subsequently granted on September 29, 2023, with Plaintiff filing her First Amended Complaint on October 25, 2023. A copy of Plaintiff's First Amended Complaint and Request for Jury Trial is attached hereto as Exhibit 2. A certified copy of the state court record will be filed upon receipt of same from the Hillsborough County Superior Court, Southern District.

4. As Plaintiff's First Amended Complaint and Request for Jury Trial and Summons, was filed and served onto Defendants via the Court's ECF system on October 25, 2023, pursuant to 28 U.S.C. § 1446(a), this notice of removal is timely filed within thirty (30) days of October 25, 2023.

5. Defendants have not served any answer or responsive pleading to the Complaint (Charge), nor made any argument before the state court.

6. This Court has original jurisdiction over this action by virtue of federal question jurisdiction pursuant to 28 U.S.C. §1331. Specifically, Plaintiff alleges alleging disability discrimination in violation of the Americans with Disabilities Act of 1990, as amended, 42

U.S.C. §12101, et seq. (“ADA”) and Willful Retaliation in Violation of FMLA, pursuant to 29 USC 4§ 2615, 2617(c) and 2601.

7. Defendants submits this Notice without waiving any defenses to the claims asserted by Plaintiff or conceding that Plaintiff has pled claims upon which relief can be granted.

8. As this action could have been commenced in this Court, removal is proper. 28 U.S.C. §1441(a). Furthermore, this Court may exercise supplemental jurisdiction over the Plaintiff’s state law claims. See 28 U.S.C. §1367(a).

Respectfully Submitted,

SOUTHERN NEW HAMPSHIRE
HEALTH SYSTEM, INC.;
SOUTHERN NEW HAMPSHIRE
MEDICAL CENTER; AND
FOUNDATION MEDICAL
PARTNERS, INC.

By their attorneys,

JACKSON LEWIS P.C.,

Date: November 16, 2023

By: /s/ John D. Prendergast
John D. Prendergast (Bar no. 266236)
100 International Drive, Suite 363
Portsmouth, NH 03801
603.559.2700
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Certificate of Service

I hereby certify that the foregoing was served by electronic filing to all parties.

Date: November 16, 2023

By: /s/ John D. Prendergast
John D. Prendergast (Bar no. 266236)